
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Eugene Dezanett
d.b.a. Pro Class Electronics
Perrysburg, OH

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File No. EB-05-NY-045

Citation No. C20053238001

CITATION

Released: March 8, 2005

By the District Director, New York Office, Northeast Region, Enforcement Bureau:

1. This is an Official Citation issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended ("Act"),¹ to Eugene Dezanett d.b.a. Pro Class Electronics for violation of Section 302(b) of the Act,² and Section 2.803(a)(1) of the Commission's Rules ("Rules").³

2. On February 2, 2005, Eugene Dezanett d.b.a. Pro Class Electronics, through the Internet site www.proclassradio.com offered for sale, the following sixty (60) non-certified Citizens Band ("CB") transceivers:

<u>NAME</u>	<u>MODEL</u>	<u>PRICE</u>	<u>DESCRIPTION</u>
Connex	3300	\$224.99	"Similar to Galaxy DX33HML"
Connex	3300 HP	\$239.99	
Connex	4400	\$249.99	"8 Band modifiable"
Connex	4400 HP	\$274.99	
Connex	4800 DXL	\$349.99	"12 bands of illicit channels"
Connex	4800 DXL w/ echo	\$349.99	
Galaxy	DX 33 HML	\$719.95	"With Ranger Digital Echo Board"
Galaxy	DX 44V	\$229.95	
Galaxy	DX 45 MP	\$279.95	
Galaxy	DX 48T	\$389.95	
Galaxy	DX55V	\$221.95	
Galaxy	DX66V	\$298.95	
Galaxy	DX73V	\$319.99	
Galaxy	DX 77HML	\$281.99	

¹ 47 U.S.C. § 503(b)(5)

² 47 U.S.C. § 302(b)

³ 47 C.F.R. § 2.803(a)(1)

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<u>NAME</u>	<u>MODEL</u>	<u>PRICE</u>	<u>DESCRIPTION</u>
Galaxy	DX 88HL	\$369.95	
Galaxy	DX 93T	\$439.95	
Galaxy	DX 95T		
Galaxy	DX99V	\$399.95	
Galaxy	DX2517	\$489.99	
Galaxy	DX2527	\$538.99	"Like a RCI2950 except as Base Version"
Galaxy	Melaka (Base)	\$269.99	"240 channels"
(Galaxy)	Pluto	\$294.99	
Galaxy	Saturn (Base)	\$469.99	"271 channels"
Galaxy	Saturn Turbo (Base)	\$619.99	
General	Grant	\$429.99	"24-30MHz, 12 bands, 480 channels"
General	Grant w/ Echo	\$479.95	"Echo installed in place of NB/ANL switch"
General	Stonewall Jackson	\$599.95	
General	Lee	\$219.95	"25.6 – 28.3 MHz, 6 bands, 240 channels"
General	Washington	\$219.95	"25.6 – 28.3 MHz, 6 bands, 240 channels"
Magnum	257	\$239.95	"AM/FM/USB/LSB"
Magnum	357 DX	\$439.95	
Magnum	Alpha Force	\$209.95	"Shipping ... to your door. (Continental USA)"
Magnum	Delta Force	\$309.95	Conversion instructions included.
Magnum	Mini	\$89.95	"channel coverage better than Connex 3300"
Magnum	S-3		"programmable to 6 bands out of a possible 12"
Mirage	33 HP	\$234.99	
Mirage	44	\$234.99	
Mirage	6600	\$275.99	
Mirage	88	\$334.99	
Mirage	99	\$344.99	
Mirage	2950	\$289.99	
Mirage	2970	\$414.90	
Mirage	9900	\$339.95	"8 band", "Robot Voice"
Ranger	RCI 2970	\$319.95	"Used Radios"
Ranger	RCI-6300	\$199.00	(used)
Ranger	RCI-6300 Turbo	\$299.00	(used)
Ranger	RCI-6900	\$250.00	(used)
Ranger	RCI-6900 Turbo	\$325.00	(used)
RCI	RG-99	\$279.99	
SuperStar	121		"Full channel 27 MHz"
SuperStar	3700		"AM/FM", "120 AM, 120 FM"
SuperStar	3900	\$224.99	"360 channels", "channel 9 switch"
SuperStar	3900 HP G		"360 channels", "channel 9 switch"
Super Star	3900 Gold	\$244.99	
Super Star	4800	\$219.99	
(Super Star)	Grant	\$224.99	
Virage	3300	\$229.99	
Virage	3300 HP	\$244.99	
Virage	VX-38	\$229.99	
Virage	VX-39	\$249.99	

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According to the Commission's records, these devices have not received an FCC equipment authorization which is required for Citizens Band transmitters marketed in the United States. Additionally, a Cherokee model CM-10 is offered for sale on the Internet site for \$149.95 with the statement "Epoxy has already been carefully removed." The removal of the epoxy from the frequency determining circuitry of this unit voided the coverage of this transceiver under FCC Certification MGPCM-10 and the modified device may not be marketed.

3. Section 302(b) of the Act provides "No person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section." Section 2.803(a)(1) of the Rules provides that "... no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless: (1) In the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled..." CB transmitters must be certified pursuant to Section 95.603(c) of the Rules.⁴ Eugene Dezanett d.b.a. Pro Class Electronics offered for sale these devices in violation of both sections.

4. Eugene Dezanett d.b.a. Pro Class Electronics marketed these devices as amateur and/or Citizens Band transceivers. The Commission has evaluated radio frequency devices similar to those listed in paragraph 2 and concluded that the devices at issue are not only amateur radios but can easily be altered for use as CB devices as well. A CB transmitter is a transmitter that operates or is intended to operate at a station authorized for the CB service, and it must be certificated by the FCC prior to marketing or importation.⁵ The Commission has further concluded that these devices fall within the definition of a CB transmitter and therefore cannot legally be imported or marketed in the United States. *See Response from the Commission's General Counsel to U.S. Customs Service dated May 17, 1999, 14 FCC Rcd 7797 (1999).*

5. Additionally, dual use CB and amateur radios of the kind at issue here may not be certificated under the Commission's rules. Section 95.655(a) of the Rules⁶ states "...([CB] Transmitters with frequency capability for the Amateur Radio Services....will not be certificated)." *See also* FCC 88-256, 1988 WL488084 (August 17, 1988). This clarification was added to explicitly foreclose the possibility of certification of dual use CB and amateur radios, *see id.*, and thereby deter use by CB operators of frequencies allocated for amateur radio use.

6. Furthermore, the Commission has revised Section 2.1204(a)(5) of its Rules⁷ to prohibit all marketing and/or offering for sale in the United States of such devices even when the purchaser(s) had provided assurances that the transceivers are being bought solely for export. **ALL DOMESTIC MARKETING OF SUCH DEVICES VIOLATES THE COMMUNICATIONS ACT OF 1934, AS AMENDED, AND THE COMMISSION'S RULES.**

7. Subsequent violations of the Communications Act and/or the Commission's Rules may subject the violator to substantial monetary forfeitures not to exceed \$11,000 for each such violation or

⁴ 47 C.F.R. § 95.603(c).

⁵ *See* 47 C.F.R. §§ 95.603(c), 2.803

⁶ 47 C.F.R. § 95.655(a); *see also* FCC 88-256, 1988 WL488084 (August 17, 1988).

⁷ 47 C.F.R. § 2.1204(a)(5) revised effective February 28, 2000.

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each day of a continuing violation,⁸ seizure of equipment through *in rem* forfeiture action, and criminal sanctions including imprisonment.⁹

8. Eugene Dezanett d.b.a. Pro Class Electronics may request a personal interview at the Commission's Field Office nearest his place of business, namely:

Federal Communications Commission
Detroit Office
24897 Hathaway Street
Farmington Hills, Michigan 48335-1552

which can be contacted by telephone at XXX XXX-XXXX. He must schedule this interview to take place within fourteen (14) days of the date of this citation. Alternatively, Eugene D. Dezanett d.b.a. Pro Class Electronics may submit a written statement within fourteen (14) days of the date of this citation to the following address:

Federal Communications Commission
New York Office
201 Varick Street, Suite 1151
New York, NY 10014

which can be contacted by telephone at XXX XXX-XXXX. Any written statement should specify what actions have been taken to correct the violations outlined above. Please reference case number EB-05-NY-045 and citation number C20053238001 when corresponding with the Commission.

9. This Citation shall be sent First Class U.S. Mail and, Certified Mail, Return Receipt Requested, to Eugene Dezanett d.b.a. Pro Class Electronics at its address of record.

10. The Privacy Act of 1974¹⁰ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance. Any false statement made knowingly and willfully in reply to this Citation is punishable by fine or imprisonment under Title 18 of the U.S. Code.¹¹ **Please be advised that if you choose not to respond to this Citation and a forfeiture is issued, your unresponsiveness will be considered in our assessment of a forfeiture amount.**

⁸ See 47 C.F.R. § 1.80(b)(3)

⁹ See 47 U.S.C. §§ 401, 501, 503, 510

¹⁰ P.L. 93-579, 5 U.S.C. § 552a(e)(3)

¹¹ 18 U.S.C. § 1001 *et seq.*

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Daniel W. Noel
District Director
New York Office
Northeast Region
Enforcement Bureau